

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MATTHEW C. STECHAUNER,

Plaintiff,

v.

PAUL KEMPER, LAVAIL JAMISON,
DANA BROWN, and KIM EINWALTER,

Defendants.

ORDER

17-cv-582-jdp
Appeal No. 19-2791

Pro se plaintiff Matthew Stechauner brought claims against employees of the Racine Correctional Institution, an institution in which he was previously incarcerated. On June 24, 2019, a jury returned a verdict in favor of defendants Paul Kemper, Dana Brown, and Lavail Jamison. Dkt. 117. After a default hearing on July 18, 2019, I granted Stechauner's motion for default judgment against defendant Kim Einwalter, awarding compensatory damages of \$2,500 and punitive damages of \$2,500. Dkt. 125. Stechauner filed a notice of appeal, Dkt. 134, and he requests leave to proceed in forma pauperis on appeal, Dkt. 139.

A district court may deny a request for leave to proceed in forma pauperis under 28 U.S.C. § 1915 if the litigant hasn't established indigence, if the appeal is taken in bad faith, or if the litigant is a prisoner and has three "strikes." 28 U.S.C. §§ 1915(a), (g); *Sperow v. Melvin*, 153 F.3d 780, 781 (7th Cir. 1998). I conclude that Stechauner has established his indigence, that he does not have three strikes against him, and that his appeal is not taken in bad faith. Stechauner is eligible to proceed in forma pauperis.

Under 28 U.S.C. §§ 1915(b)(1)–(2), indigent inmates are required to pay the full amount of the \$505 docketing fee for a notice of appeal in increments, starting with an initial partial payment. Based on Stechauner's inmate trust fund account statement, it appears that

he can make an initial partial payment of \$1.02, which will be due no later than November 6, 2019. If the balance in Stechauner's regular account is not sufficient to make the initial partial appeal payment, arrangements will have to be made by Stechauner with prison authorities to pay some or all of the fee from plaintiff's release account. He must then pay the remainder of the docketing fee for each case in monthly installments in accordance with 28 U.S.C. § 1915(b)(2).

Stechauner has also filed a transcript statement and a letter requesting preparation of the default hearing transcript at government expense. Dkt. 138 and Dkt. 141. Because I have determined that Stechauner is eligible to proceed in forma pauperis on appeal and that his appeal is not frivolous, I will grant this motion. In his letter, Stechauner also requests a certified copy of his judgment, Dkt. 126, which I will also grant.

ORDER

IT IS ORDERED that:

1. Plaintiff Matthew Stechauner's request for leave to proceed in forma pauperis on appeal, Dkt. 139, is GRANTED. The court certifies that Stechauner's notice of appeal is not taken in bad faith for purposes of Fed. R. App. P. 24(a)(3).
2. Stechauner may have until November 6, 2019, to submit a check or money order made payable to the clerk of court in the amount of \$1.02. If by November 6, 2019, Stechauner fails to pay the initial partial appeal payment or show cause for failure to do so, then I will advise the court of appeals of his noncompliance in paying the assessment so that it may take whatever steps it deems appropriate with respect to this appeal.
3. The clerk of court is requested to ensure that the court's financial records reflect Stechauner's obligation to pay the \$1.02 initial partial payment and the \$505.00 appeal fee for this case.
4. Stechauner's motion requesting preparation of the default hearing transcript at government expense and a certified copy of his judgment, Dkt. 138 and Dkt. 141, is GRANTED. The court reporter is directed to prepare transcripts of the July 18, 2019 default hearing and to furnish copies to Stechauner, with fees

to be paid by the United States, pursuant to 28 U.S.C. § 753(f), and to send Stechauner a certified copy of his judgment, Dkt. 126.

Entered October 15, 2019.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge